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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,019	03/27/2002	Juergen Wieczorek	016779-0164	3559
22428	7590	11/10/2003	EXAMINER	
FOLEY AND LARDNER			SUNG, CHRISTINE	
SUITE 500			ART UNIT	PAPER NUMBER
3000 K STREET NW				2878
WASHINGTON, DC 20007				

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N	Applicant(s)
	10/018,019	WIECZORECK ET AL.
	Examiner	Art Unit
	Christine Sung	2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### *Office Action Summary*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- If extension of time under 37 CFR 1.136 is requested, reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

1)  Responsive to communication(s) filed on 27 March 2002 .

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 27 March 2002 is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All  Some \*  c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 0302  
4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed March 27, 2002 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the Ullmanns Encyclopedia of Technical Chemistry reference lacks an author, publisher, and city where it was published. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

### ***Claim Objections***

2. Claims 3 and 12 are objected to because of the following informalities:
3. Claim 3 recites the limitation "the interference filter" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 12 is objected to for being dependent upon an already objected claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 8 rejected under 35 U.S.C. 102(e) as being anticipated by Glatz (US Patent 5,904,017).

Regarding claim 1, Glatz discloses a photoluminescent emergency egress accessory (see Figure 1) or a fluorescent object that emits light directionally (see Figure 1, the light emits out of the photoluminescent circles, element 111), and has a least one luminescent material (element 111, column 5, lines 21-23).

Regarding claim 8, Glatz further discloses that the object is used for emergency lighting or as a safety marking (see abstract/title).

7. Claims 1-7 and 9-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Allington (US Patent 3,918,811).

Regarding claims 1-3, 9-10 Allington discloses a fluorescent object (Element 16), which emits light directionally (See figure 2, and column 6, lines 22-33), and has at least one fluorescent material (element 36). Further the object (element 16) includes an interference filter (element 33) that is in the form of a film (see figure 2).

Regarding claim 4, 11-12, Allington further describes a backing layer or substrate (element 34), a fluorescent material (element 36) arranged over the backing layer (see figure 2), and an interference filter (element 33, 35) that is arranged over the fluorescent material.

Regarding claim 5, Allington further discloses that the fluorescent layer has at least one luminescent material (column 1, lines 13-21).

Regarding claims 6 –7 and 13-14, Allington further discloses a reflecting layer (element 35) arranged between the backing layer and the fluorescent layer (see figure 2).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 8 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allington (US Patent 3,918,811) in view of Glatz (US Patent 5,904,017).

Allington discloses the limitations set forth in the respective independent claims, however he does not specify the use of his invention in safety markings. Glatz discloses a phosphor object in his invention and uses it for safety purposes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the invention disclosed by

Allington for safety purposes as disclosed by Glatz, as it has been held that recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex Parte Maham*, 2 USPQ 2d 1647 (1987).

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. US Patent 5,858,495- this reference discloses an afterglow tape used for safety markings.

b. US Patent 5,904,017- this reference discloses an afterglow tape used for safety marking including many elements disclosed, such as a backing and various afterglow/luminescent/fluorescent materials.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine Sung whose telephone number is 703-305-0382. The examiner can normally be reached on Monday- Friday 7-4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on 703-308-4852. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Christine Sung  
Examiner  
Art Unit 2878

  
DAVID PORTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

Application/Control Number: 10/018,019  
Art Unit: 2878

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